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10/694,429	10/27/2003	Randy Ulvenes	2283	3346

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EXAMINER	
LAI, MICHAEL C	

ART UNIT	PAPER NUMBER
2457	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/694,429	ULVENES, RANDY	
	Examiner	Art Unit	
	MICHAEL C. LAI	2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 January 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6 and 13-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6 and 13-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *1/19/2009*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is responsive to amendment filed on 1/27/2009.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/19/2009 has been entered.

Response to Amendment

3. The examiner has acknowledged the amended claim 4.

Response to Arguments

4. Applicant's arguments, see pages 9-10, filed 1/27/2009, with respect to the 101 rejection of claim 20 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

5. Applicant's arguments, with respect to the rejection(s) of claim(s) 1-6 under 102(e) rejection have been fully considered but they are not persuasive.

In Applicant's argument, see pages 10-11, with respect to "Kumar is clearly directed to having the wireless device (i.e., the client) estimate the cost of a desired session before the wireless device sends a request for the content, i.e., before the wireless device actually initiates the session. It would be impossible in that scenario for the cost to be computed during transmission of the web request from the client to

the content server, since the web request has not yet been transmitted at the time the cost is computed by the client. At a bare minimum, Kumar thus does not teach computing a size-based cost during transmission of the web request within the communication path from a client station to a content server, between the client station and the content server", is not persuasive.

The reference to Kumar is directed to a cost estimate for the communication session that is determined based on a quality of service level and a quantity of information to be communicated (see abstract). Kumar further discloses that cost of service information 510 may be provided directly by the networks to a wireless communication device **in real-time** (see paragraph 0037). The reference goes on to state that the communication session is initiated when the cost estimate is presented to the used and accepted (see FIG. 6, and paragraphs 0045, 0047, and 0051). As the 112 second paragraph rejection to claim 1 indicates below, "computing a size-based cost to access the web content" without "determining the size of the requested web content", at best, is only an estimate of the cost. Besides, the limitation in claim 1 "**after** receiving the user approval, **sending the request** along to the content server" clearly indicates having the device sends a request for the content before the device actually initiates the session, as Kumar discloses.

In view of the foregoing, it is evident that the reference to Kumar clearly provides for the claimed limitations of "...during transmission of the web request within the communication path, between the content server and the client station...", "computing...", "engaging...", and "...sending ..." in claim 1.

Applicant's argument, see pages 13-14, with respect to claim 4-6, is not persuasive. See reasons above for claim 1.

6. Applicant's arguments with respect to the 102 rejection of claims 13-25 are not persuasive.

Applicant's argument, see pages 14-16, with respect to "At a minimum, Vacanti does not disclose the combination of elements recited in any of claims 13, 16, and 20, including the function of computing a size-based cost to access the web content and adding an indication of the size-based cost into the web content in conjunction with the hyperlink, such that the indication of the size-based cost will be presented to a user when the web content is presented to the user...However, Vacanti does not teach embellishing the hyperlink with a size-based cost to access the referenced web content", is not persuasive.

The reference to Vacanti is directed to a system that provides advanced notice of cost to access web content. During transmission of web content over a communication path between a content server and a client station, an intermediation system adds into the web content, in conjunction with a hyperlink to web content, an indication of cost to access the referenced web content. The indication of cost will then be presented to a user when the web content is presented to the user, thereby giving the user an advanced notice of the cost to access the referenced content (see abstract). Vacanti further discloses users pay in advance for **quantity of access** (see column 20, lines 51-55). The reference goes on to state (see column 22, lines 4-7) calling an ADDCOST() function to add the indicated cost into the referenced

hyperlink. As the 112 second paragraph rejection to claim 13 indicates below, "computing a size-based cost to access the web content" without "determining a size of the web content referenced by the hyperlink", at best, is only an estimate of the cost. Thus, Vacanti does teach the function of "computing a size-based cost to access the web content."

In view of the foregoing, it is evident that the reference to Vacanti clearly provides for the claimed limitation of "during transmission of the web content within the communication path, between the content server and the client station, (i) computing a size-based cost to access the web content and (ii) adding an indication of the size-based cost into the web content, in conjunction with the hyperlink, such that the indication will be presented to a user when the web content is presented to the user."

Thus, in view of such, the rejection is sustained together with new ground of 112 second rejections as follows:

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1, 4, 13, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the web content" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the web content" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "the web content" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation "the web content" in line 3. There is insufficient antecedent basis for this limitation in the claim.

9. Claims 1 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: "determining the size of the requested web content", and "advising the user of the size-based access cost". The "determining" step is essential to the "computing" step, and the "advising" step is essential to the "receiving user approval" step. See page 30, lines 15-21 of the original specification.

10. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: "detecting a hyperlink in web content being delivered to a client station", and "determining a size of the web content referenced by the hyperlink". These two step are essential to the "computing" step. See page 31, lines 9-14 of the original specification.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Kumar et al. (US 2003/0083041 A1, hereinafter referred to as Kumar).

Regarding claim 1, Kumar discloses: In a communication system wherein a request for web content is transmitted over a communication path from a client station to a content server, a method comprising the following functions carried out during transmission of the web request within the communication path, between the client station and the content server:

computing a size-based cost to access the web content [para. 0045, operation 614];

engaging in interstitial communication with the client station to receive user approval to pay the size-based cost [para. 0037 and para. 0047, operation 616]; and

after receiving the user approval, sending the request along to the content server [para. 0051, operation 628].

Regarding claim 2, Kumar discloses the method of claim I, wherein computing the size-based cost to access the web content comprises:

multiplying a charging-rate by a size of the web content [para. 0045, based on the content quantity estimate].

Regarding claim 3, Kumar discloses the method of claim 2, wherein computing the size-based cost to access the web content further comprises:

selecting the charging rate based at least in part on a factor selected from the group consisting of (i) a service level of a user requesting the web content [para 0045, user desired quality of service level] and (ii) a time of day.

Regarding claim 4, Kumar discloses: In a communication system wherein web content is transmitted over a communication path from a content server to a client station, a method comprising the following functions carried out during transmission of the web content within the communication path, between the content server and the client station:

computing a size-based cost to access the web content [para. 0045, operation 614];

engaging in interstitial communication with the client station to receive user approval to pay the size-based cost [para. 0047, operation 616]; and

after receiving the user approval, sending the web content along to the client station [abstract, The communication session is initiated when the cost estimate is accepted; para. 0051, operation 628].

Regarding claim 5, Kumar discloses the method of claim 4, wherein computing the size-based cost to access the web content comprises:

multiplying a charging-rate by a size of the web content [para. 0045, based on the content quantity estimate].

Regarding claim 6, Kumar discloses the method of claim 5, wherein computing the size-based cost to access the web content further comprises:

selecting the charging rate based at least in part on a factor selected from the group consisting of (i) a service level of a user requesting the web content [para 0045, user desired quality of service level] and (ii) a time of day.

13. Claims 13-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Vacanti et al. (US 6,987,987 B1, hereinafter Vacanti).

Regarding claim 13, Vacanti discloses a communication system wherein web content is transmitted over a communication path from a content server to a client station, the web content defining a hyperlink to be presented by a browser running on the client station, the hyperlink pointing to referenced web content, a method comprising:

during transmission of the web content within the communication path, between the content server and the client station, (i) computing a size-based cost to access the web content [col. 20, lines 51-55; col. 22, lines 4-7: Handler logic modules 80 might then include an ADDCOST( ) function, which is executable by processor 68 to add the indicated cost into the referenced hyperlink] and (ii) adding an indication of the size-based cost into the web content, in conjunction with the hyperlink, such that the indication will be presented to a user when the web content is presented to the user [FIG. 15, and col. 18, lines 52-65: In this regard, the

explanatory object might be text or graphics that somehow indicates a cost for the web content. The indication of cost could be a general indication that there is a charge to access the web content.].

Regarding claim 14, Vacanti further discloses an access channel between content server 18 and client station 14 [FIG. 1].

Regarding claim 15, Vacanti further discloses engaging in interstitial communication with the user to collect user-payment of the size-based cost for the referenced web content [FIG. 7: interstitial server 62, col. 15, lines 44-45: engaging in "interstitial communication" with the client station (and, more specifically, with the user 12)...].

Regarding claim 16, Vacanti discloses a communication system wherein web content is transmitted over a communication path from a content server to a client station, a method comprising, during transmission of the web content within the communication path, the following functions:

receiving the web content [FIG. 10 and col. 12, lines 16-18: Generally speaking, the network interface receives 66 and sends IP packets that carry HTTP communications;

detecting a hyperlink within the web content, wherein the hyperlink points to referenced web content [col. 9, lines 20-24: In this regard, the intermediation system will preferably include trigger logic, which detects HTTP communications, and a enforcement logic, which acts on or in response to HTTP communications.];

determining a cost of the referenced web content based at least in part on a size of the referenced web content [col. 20, lines 51-55; col. 22, lines 4-7: Handler logic modules 80 might then include an ADDCOST( ) function, which is executable by processor 68 to add the indicated cost into the referenced hyperlink];

adding into the web content, in conjunction with the hyperlink, an indication of the determined cost [FIG. 15, and col. 18, lines 52-65: In this regard, the explanatory object might be text or graphics that somehow indicates a cost for the web content. The indication of cost could be a general indication that there is a charge to access the web content.]; and

sending the web content, including the indication, along the access channel to the client station [col. 23, lines 57-60: After collecting the user's payment or agreement to pay or be billed, the system may then send the HTTP response along to the client station, for presentation of the requested content to the user],

whereby the indication will be presented to a user when the web content is presented to the user, thereby giving the user an advanced notice of the cost of the referenced web content [FIG. 15, and col. 18, lines 52-65: In this regard, the explanatory object might be text or graphics that somehow indicates a cost for the web content. The indication of cost could be a general indication that there is a charge to access the web content.].

Regarding claim 17, Vacanti discloses the method of claim 16, wherein the communication path comprises an access channel between client station and a packet-switched network [FIG. 1] the method comprising carrying out the functions within the access channel.

Regarding claim 18, Vacanti discloses the method of claim 16, wherein determining the size-based cost comprises multiplying a charging rate by the size of the web content [col. 20, lines 51-55, quantity of access].

Regarding claim 19, Vacanti discloses the method of claim 16, wherein the web content is defined by a set of markup language [FIG. 12], and wherein adding the indication of the size-based cost in conjunction with the hyperlink comprises adding into the set of markup language [FIG. 14], adjacent to the hyperlink, display text indicative of the size-based cost [FIG. 15].

7. Regarding claim 20, Vacanti discloses an intermediation system disposed within a web communication path between a client station and a packet-switched network, the intermediation system comprising:

a network interface for receiving and sending communications on the HTTP communication path, wherein the network interface receives a communication that carries web content and the web content defines a hyperlink that points to referenced web content [FIG. 10 and col. 2, lines 41-46: The intermediation system may include a network interface for receiving and sending communications on the HTTP communication path,

and the network interface may receive a communication that carries web content including a hyperlink that points to referenced web content.];

cost-computation logic for computing a size-based cost to access the referenced web content [col. 20, lines 51-55; col. 22, lines 4-7: Handler logic modules 80 might then include an ADDCOST( ) function, which is executable by processor 68 to add the indicated cost into the referenced hyperlink]; and

cost-embellishment logic for inserting into the web content an indication of the size-based cost to access the referenced web content and for thereby establishing cost-embellished web content [FIG. 10 and col. 2, lines 46-50: The intermediation system may then further include cost-embellishment logic for inserting into the web content an indication of cost to access the referenced web content and for thereby establishing cost-embellished web content];

wherein the network interface sends the cost-embellished web content along the access channel for ultimate receipt and presentation of the cost-embellished web content by a browser running on the client station [FIG. 10 and col. 2, lines 50-53: the network interface may send the cost-embellished web content along the access channel for ultimate receipt and presentation of the cost-embellished web content by a browser running on the client station.].

Regarding claim 21, Vacanti further discloses that the cost-computation logic and cost-embellishment logic are embodied in software executable by a processor [FIG. 10 processor 68, and col. 22, lines 4-7: Handler logic modules 80 might then include an ADDCOST( ) function, which is executable by processor 68 to add the indicated cost into the referenced hyperlink.].

Regarding claim 22, Vacanti discloses the intermediation system of claim 20, wherein the communication path comprises an access channel between the client station and a packet-switched network, and wherein the intermediation system is disposed within the access channel [FIG. 7, and col. 9, lines 19-21: an exemplary intermediation system will sit within the HTTP communication path between a client station and content server.].

Regarding claim 23, Vacanti discloses the intermediation system of claim 22, wherein the client station is a mobile station, and the access channel comprises an air interface and a radio access network [FIG. 8].

Regarding claim 24, Vacanti discloses the intermediation system of claim 22, further comprising:

size data that specifies the size of the referenced web content,

wherein the cost-computation logic computes the size-based cost at least in part by applying a charging-rate to the size [col. 20, lines 51-55, quantity of access].

Regarding claim 25, Vacanti discloses the intermediation system of claim 22, further comprising:

exception data that indicates whether a user of the client station already has a right to access the referenced web content [col. 13, lines 45-50: an exception table might specify that a particular user has already paid for the content, so that no intermediation is required for that user];

wherein the cost-embellishment logic doesn't insert the indication of size-based cost if the exception data specifies that the user of the client station already has a right to access the referenced web content [as noted above, since no intermediation is required under this situation, it is inherent that the intermediation system does not instruct the cost-embellishment logic to insert the indication of size-based cost].

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Colson et al., US 2003/0128229 A1, has taught a method and system for allowing a user to determine whether to view web content based on cost.

Kurihara, US 2004/0098470 A1, has taught a size-based charging scheme.

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and

figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Lai whose telephone number is (571) 270-3236. The examiner can normally be reached on M-F 8:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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12FEB2009

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